IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1835 OF 2006

Shri. Digambar Co-operative Housing Society ... Petitioner

Versus

Municipal Corporation of Greater Mumbai and Ors. ... Respondents

Mr. S.D. Mogre for Petitioner.

Mrs. P.A. Purandhare for R. No. 1.

Mr. R.A. Thorat for R. Nos. 4 and 5.

Mr. A.A. Garge for R. No. 6.

Mr. Shrinivas M. Deorukhkar, Joint Secretary for R.Nos. 3 in person present.

ALONGWITH
WRIT PETITION NO. 1987 OF 2006

Jayantilal D. Ved ... Petitioner

Vs.

Mumbai Pradesh Congress Committee Properties Trust and Ors. ... Respondents

CORAM: F.I. REBELLO &
MRS.V.K.TAHILRAMANI,JJ.
DATE : 28TH JULY, 2006

P.C.:

1. Rule in both the Petitions. Writ Petition (L) No. 1303 of 2006 is not on board. By consent heard forthwith.

2. The Petitioners are carrying out the development

work in terms of D.C. Regulations 33(7). One of the tenant as shown in the records of the Respondent No. 1 is Bombay Pradesh Congress Committee. The Respondent Nos. 3 to 6 are claiming interest in the premises through Respondent No. 2. The liability of the Petitioners would be to grant the area occupied by Respondent No. 2 in terms of law to those who will be so entitled to.

3. The Petitioners in the Writ Petition No. 1303 of 2006 through Respondent No. 6 has filed his claim before Respondent no. 1 claiming also interest in the suit property. In the similar manner the respondent nos. 3, 4, and 5 if are so entitled they may claim their rights by filing an application before the Respondent No. 1. The Respondent No. 1 thereafter to consider the same and decide the same according to Law. Needless to say that the said decision of Respondent No. 1 or the decision of a competent civil Court deciding who is entitled to occupy the premises originally tenanted to Respondent No. 2 would be binding on the Petitioners in Writ Petition NO. 1835 of 2006.

4. In the meantime, as the building was in dilapidated condition and dangerous, the Corporation has issued notice under Section 354 of the Mumbai Municipal Corporation Act on the Chairman of the

Petitioner No. 1 society. Subsequent to that the case of the Petitioners is that Respondent No. 1 has partly demolished the premises but has failed to carry out subsequent demolition. The relief sought in Petition No. 1835 of 2006, is to issue directions to Respondent No. 1 to act on the notice in terms of Section 354. Considering what we have set out we direct respondent No. 1 on failure by the Petitioners to remove the said dangerous construction, according to law at any rate not latter than four weeks from today. The costs of removal, if any will be paid for by the Petitioners.

(2) In so far as Respondent Nos. 2 to 6 are concerned, their rights will be decided in terms of the decision taken by Respondent No. 1 or by the competent civil Court. At any rate the area of 635 sq. ft. which the Respondent No. 2 was shown tenant will be subject to those decisions.

5. The work of demolition to be commenced after four weeks from today. If the Respondent Nos. 3 to 6 entered into an agreement with the Respondent No. 2 in respect of 635 sq. ft. the Petitioners as interim measure will accept the said agreement between Respondent Nos. 2 and Respondent Nos. 3 to 6. With the above observations, both the Petitions are disposed of.

6. The competent officer of hte Corporation on representation made by the Respondent Nos. 3 to 5 to decide teh same within eight weeks from the receipt of the representation. The Respondent No. 1 to decide the pending representation of Respopndent No. 6 in Writ Petition No. 1835 of 2006 within eight weeks along with the representation of Respondent Nos. 3 to Respondnet No. 5, if made.

7. All parties to act on the authenticated copy of this order.

(MRS.V.K.TAHILRAMANI,J.) **(F.I.REBELLO, J.)**